

PLM-1

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

10,768

FILE: B-193289 *Indebtedness For* DATE: July 17, 1979

MATTER OF: Dr. Robert L. Rausch - Shipment of Household Goods Upon Release From Active Duty

DIGEST: Public Health Service doctor who retired on April 1, 1974, and turned his household goods over to carrier under Government Bill of Lading (GBL) on May 29, 1975, appeals determination of indebtedness. Agency established indebtedness of \$18,174.23 representing value of GBL since his household goods were not turned over to carrier within 1 year following his relief from active duty as required by 37 U.S.C. 406(g) and Joint Travel Regulations para. M8260 (July 1, 1972). Since Dr. Rausch does not qualify under any of the exceptions to the 1-year limitation, he is indebted for the value of the GBL. Furthermore, the indebtedness may not be considered for waiver under 10 U.S.C. § 2774 (1976).

This action concerns the appeal of Dr. Robert L. Rausch from an agency determination that he was liable for the expense of shipping his household goods from Fairbanks, Alaska, to Saskatoon, Saskatchewan, Canada, incident to his release from active duty with the Public Health Service on March 31, 1974, and his retirement on April 1, 1974. Upon review our Claims Division concurred with the agency determination.

Dr. Rausch retired from the Public Health Service (Service) on April 1, 1974. His household goods were turned over to a carrier under a Government Bill of Lading (GBL) on May 29, 1975. (Although the GBL was dated March 6, 1975, the ^{Office} Service found ^{the} Dr. Rausch indebted for \$18,174.23 since the household goods were not turned over to the carrier for shipment within 1 year following his relief from active duty, as required by ~~1 Joint Travel~~ Regulations, (JTR) para. M8260 (July 1, 1972). Dr. Rausch argues that the delay in presenting his household goods to the carrier was due to conditions beyond his control. Specifically, he states that the long, severe Alaskan winter and the melting of the snow during the month of April combined to render his driveway, which he describes as long, narrow and steep, impassable to a large moving company van until the middle of May. Upon learning that it would not be feasible to attempt the movement of his household goods until May, Dr. Rausch contacted the transportation officer at the Alaska Native Medical Center, Anchorage, and

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advised her of the circumstances. He reports that she did not foresee any problem since the GBL had been issued before the expiration of the 1-year time limitation.

Section 406(g), title 37, United States Code, provides that, under uniform regulations prescribed by the Secretaries concerned, a member who is retired is, not later than 1 year from the date he is so retired, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected by him.

Paragraph M8260 (July 1, 1972) of the Joint Travel Regulations promulgated by the Secretaries pursuant to 37 U.S.C. 406(g) provides that the household goods of a member who is retired must be turned over to a transportation officer or carrier for shipment within 1 year following termination of active duty.

Thus, the law and regulations impose a 1-year time limit for shipment of household goods at Government expense from the date of the member's termination of active service, unless he comes within the exceptions prescribed in the regulations. The Secretaries have issued regulations extending the 1-year limitation in the case of persons in a retired status who are undergoing hospitalization or medical treatment or schooling or training at the time of retirement or during the 1-year period after retirement. See 46 Comp. Gen. 764 (1967). Dr. Rausch does not qualify under any of the exceptions that were in force at the time of his retirement.

Regarding Dr. Rausch's statement that he was misinformed by the transportation officer at the Alaska Native Medical Center, it is clear that an employee's entitlements are governed by applicable statute or regulation and absent any statutory provision for relief such rights cannot be enlarged by the unauthorized acts of administrative officials. Matter of Dr. Keith A. Baker, B-186758, March 23, 1977.

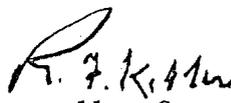
We note that the JTR was amended effective August 1, 1976, by the addition of a new subparagraph M8260-6 titled "OTHER DESERVING CASES." The new regulation authorized the Secretary concerned to grant an extension to the 1-year time limitation where an unexpected event beyond the control of the member has occurred which prevented him from moving within the allowable period. In B-194599, May 22, 1979, we held that the authority under JTR para. M8260 (now M8262-6)

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may not be exercised where the 1-year time limitation had expired prior to August 1, 1976, the effective date of the change incorporating that subparagraph into the JTR. Accordingly, Dr. Rausch's case may not be considered under that regulation.

We are not aware of any other provision that would authorize payment of Dr. Rausch's household goods transportation expenses. Finally, Dr. Rausch's indebtedness may not be considered for waiver action under 10 U.S.C. § 2774 (1976), which authorizes the waiver of erroneous payments of any pay or allowances other than travel and transportation allowances.

In view of the above we affirm the determination that Dr. Rausch is indebted to the United States for the expenses of shipping his household goods.


Deputy Comptroller General
of the United States